

UNITED STATES DISTRICT COURT

Northern

District of

California

UNITED STATES OF AMERICA
V.

Discovery Sales, Inc.

JUDGMENT IN A CRIMINAL CASE
(For Organizational Defendants)

CASE NUMBER: CR 16-00199 YGR

William Keane and Lyn Agre

Defendant Organization's Attorney

THE DEFENDANT ORGANIZATION:

- ☒ pleaded guilty to count(s) One
- ☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.
- ☐ was found guilty on count(s) _____
after a plea of not guilty.

The organizational defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. Section 1344	Bank Fraud		One

The defendant organization is sentenced as provided in pages 2 through 6 of this judgment.

- ☐ The defendant organization has been found not guilty on count(s) _____
- ☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant organization must notify the United States attorney for this district within 30 days of any change of name, principal business address, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant organization must notify the court and United States attorney of material changes in economic circumstances.

Defendant Organization's
Federal Employer I.D. No.: 90-0000393

Defendant Organization's Principal Business Address:

4061 Port Chicago Highway
Concord, California 95420

12/8/2016

Date of Imposition of Judgment



Signature of Judge

Yvonne Gonzalez Rogers

U.S. District Judge

Name of Judge

Title of Judge

12/20/2016

Date

Defendant Organization's Mailing Address:

4061 Port Chicago Highway
Concord, California 95420

DEFENDANT ORGANIZATION: Discovery Sales, Inc.
CASE NUMBER: CR 16-00199 YGR

PROBATION

The defendant organization is hereby sentenced to probation for a term of :
5 years

The defendant organization shall not commit another federal, state or local crime.

If this judgment imposes a fine or a restitution obligation, it is a condition of probation that the defendant organization pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant organization must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page (if indicated below).

Defendant shall pay the \$3 million restitution ordered by the Court within 120 days of sentencing.

Defendant shall pay the \$8 million fine imposed by the Court on the following schedule: The first installment of \$1,333,333 shall be paid on the one year anniversary of sentencing in this matter, with three subsequent \$1,333,333 installments on each yearly anniversary thereafter until the final payment. Interest will accrue beginning on the date of entry of judgment and the fifth and final installment will be \$2,666,668, plus any remaining interest due and owing.

Defendant shall lodge with the Clerk of Court on the day of sentencing a surety bond in the amount of \$8 million payable to the Clerk of Court, Northern District of California. If defendant fails to make any fine payment on the schedule set forth above, the total amount of the bond shall be forfeited to the United States.

Probation shall terminate upon full payment of the \$8 million fine, at or before the deadline set forth above.

STANDARD CONDITIONS OF SUPERVISION

- 1) within thirty days from the date of this judgment, the defendant organization shall designate an official of the organization to act as the organizations's representative and to be the primary contact with the probation officer;
- 2) the defendant organization shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 3) the defendant organization shall notify the probation officer ten days prior to any change in principal business or mailing address;
- 4) the defendant organization shall permit a probation officer to visit the organization at any of its operating business sites;
- 5) the defendant organization shall notify the probation officer within seventy-two hours of any criminal prosecution, major civil litigation, or administrative proceeding against the organization;
- 6) the defendant organization shall not dissolve, change its name, or change the name under which it does business unless this judgment and all criminal monetary penalties imposed by this court are either fully satisfied or are equally enforceable against the defendant's successors or assignees; and
- 7) the defendant organization shall not waste, nor without permission of the probation officer, sell, assign, or transfer its assets.

DEFENDANT ORGANIZATION: Discovery Sales, Inc.

CASE NUMBER: CR 16-00199 YGR

CRIMINAL MONETARY PENALTIES

The defendant organization must pay the following total criminal monetary penalties under the schedule of payments on Sheet 4.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 400.00	\$ 8,000,000.00	\$ 3,000,000.00

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☒ The defendant organization shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant organization makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
1. Federal Home Loan Mortgage Corporation		\$1,175,000.00	
Attn: Restitution Administrator			
Freddie Mac			
MS 202			
8200 Jones Branch Drive			
McLean, VA 22102-3110			
2. Federal National Mortgage Association		\$1,825,000.00	
Fannie Mae			
Attention: Accounts Receivable			
14221 Dallas Parkway, Suite 100			
Dallas, TX 75254			
TOTALS	\$ 0.00	\$ 3,000,000.00	

☒ Restitution amount ordered pursuant to plea agreement \$ 3,000,000.00

☐ The defendant organization shall pay interest on restitution or a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 4 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant organization does not have the ability to pay interest, and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT ORGANIZATION: Discovery Sales, Inc.
CASE NUMBER: CR 16-00199 YGR

Judgment — Page 4 of 6

SCHEDULE OF PAYMENTS

Having assessed the organization's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 8,000,000.00 due immediately, balance due
- ☐ not later than _____, or
☒ in accordance with ☐ C or ☒ D below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C or ☐ D below); or
- C ☐ Payment in _____ (e.g., equal, weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☒ Special instructions regarding the payment of criminal monetary penalties:

The \$3,000,000 restitution payment shall be made within 120 days of the date of sentencing.

The first installment of \$1,333,333 shall be paid on the one year anniversary of sentencing, with three subsequent \$1,333,333 installments on each yearly anniversary thereafter until the final payment. Interest will accrue beginning on the date of entry of judgment and the fifth and final installment will be \$2,666,668, plus any remaining interest due and owing. Defendant may prepay all or part of the total prior to dates on which installments are due.

All criminal monetary penalties are made to the clerk of the court.

The defendant organization shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

☐ The defendant organization shall pay the cost of prosecution.

☐ The defendant organization shall pay the following court cost(s):

☐ The defendant organization shall forfeit the defendant organization's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

DEFENDANT ORGANIZATION: Discovery Sales, Inc.
CASE NUMBER: CR 16-00199 YGR

STATEMENT OF REASONS

☐ The court adopts the presentence report and guideline applications **WITHOUT CHANGE**.

OR

☐ The court adopts the presentence report guideline applications **BUT WITH THESE CHANGES**:

****The Court finds there is sufficient information to sentence the defendant organization without the preparation of a presentence report.**

Guideline Range Determined by the Court:

☐ The defendant organization is a criminal purpose organization pursuant to U.S.S.G. §8C1.1.

OR

☐ The calculation of the guideline fine range is unnecessary because the defendant organization cannot pay restitution pursuant to U.S.S.G. §8C2.2(a).

OR

Total Offense Level: 27
Base Fine: \$8,500,000.00
Total Culpability Score: 4
Fine Range: \$ 6,800,000.00 to \$ 13,600,000.00

☐ Disgorgement amount of \$ _____ is added to fine pursuant to U.S.S.G. §8C2.9.

☐ Fine offset amount of \$ _____ is subtracted from fine pursuant to U.S.S.G. §8C3.4.

☐ Fine waived or below the guideline range because of inability to pay pursuant to U.S.S.G. §8C.3.3.

RESTITUTION DETERMINATIONS

Total Amount of Restitution: \$ 3,000,000.00

☐ For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because the number of identifiable victims is so large as to make restitution impracticable under 18 U.S.C. § 3663A(c)(3)(A).

☐ For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because determining complex issues of fact and relating them to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim would be outweighed by the burden on the sentencing process under 18 U.S.C. § 3663A(c)(3)(B).

☐ For offenses for which restitution is authorized under 18 U.S.C. § 3663 and/or required by the sentencing guidelines, restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweighs the need to provide restitution to any victims under 18 U.S.C. § 3663(a)(1)(B)(ii).

☐ Restitution is not ordered for other reasons:

☐ Partial restitution is ordered, pursuant to 18 U.S.C. § 3553(c) for the following reason(s):

DEFENDANT ORGANIZATION: Discovery Sales, Inc.
CASE NUMBER: CR 16-00199 YGR

Judgment — Page 6 of 6

STATEMENT OF REASONS

- ☒ The sentence is within the guideline range and the court finds no reason to depart from the sentence called for by the application of the guidelines.

OR

- ☐ The sentence departs from the guideline range:
- ☐ upon motion of the government, as a result of a defendant's substantial assistance, or
 - ☐ for the following specific reason(s):